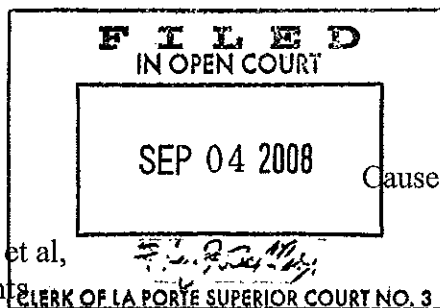


STATE OF INDIANA) IN THE LAPORTE SUPERIOR COURT NO. 3
) SS:
COUNTY OF LAPORTE) CONTINUOUS TERM

ERIC D. SMITH,
Plaintiff

-vs-

J. DAVID DONAHUE, et al,
Defendants



Cause No. 46DO3-0709-MI-378

ORDER

On August 19, 2008, the Court of Appeal of Indiana ordered the undersigned to review the plaintiff's claim filed September 14, 2007. That claim had been dismissed by the Court, with prejudice, pursuant to the three-strike statute, I.C. 34-58-2-1, which, subsequently, on April 9, 2008, was found to be unconstitutional.

Pursuant to I.C. 34-58-1-2, the Court now reviews the plaintiff's fourteen-page complaint.

The Court now finds as follows:

1. The majority of plaintiff's claims are reminiscent of prior actions he has filed with this court.
2. Plaintiff's claim of imminent and immediate danger of serious bodily injury is moot.

The Court now finds the following claims are frivolous [see I.C. 34-58-1-2(2)] as follows:


1. Plaintiff's claim on Page 3 regarding the alleged misuse of power of authority.
2. Plaintiff's claim of sadistic intent on the part of the defendants.
3. Plaintiff's claim that Officers Hanks, Buss and Knight illegally confiscated the plaintiff's property.
4. Plaintiff's claim that the alleged loss of personal property was motivated by an unconstitutional taking by way of the defendants sadistically interpreting what personal property was permitted.
5. Plaintiff's claim that he was treated differently.
6. Plaintiff's claim on Page 8 is similar to the claims regarding his mental well-being.

7. Plaintiff's claim of the First Amendment violations of his prisoner rights.
8. Plaintiff's claim of alleged violations of his state rights.
9. Plaintiff's claims on Pages 10 and 11 that defendants' retaliation for his exercise of his legally protected activities were violations of his First and Fourteenth Amendment rights.
10. Plaintiff's claim on Page 11, 12 and 13 which, in essence, repeat in summary fashion allegations of federal and state rights.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that all of the claims made by the plaintiff are frivolous and that the plaintiff's claim may not proceed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff's claim is dismissed, with prejudice.

SO ORDERED this 4th day of Sept, 2008.



Paul J. Baldoni, Judge
LaPorte Superior Court No. 3

cc: Eric D. Smith, #112675
Deputy Attorney General